

June 23, 2008

The Town Board of the Town of Corinth held a workshop meeting on June 23, 2008 at 11:30 am at the Town Hall.

Present: Richard Lucia, Supervisor
Charles Brown, Councilman
Edward Byrnes, Councilman
Mitchell Saunders, Councilman
Robert Hafner, Town Counsel
Cheri Sullivan, Deputy Town Clerk
Fred Mann, Code Enforcement Officer
Robert Lockwood, Town Engineer
Gary Robinson, Passarelli's Engineer
Stefanie Bitter, Passarelli's Attorney
William Lupo, P.E. DEC, Storm water Mgmt.

Excused: John Major, Councilman

Public: Evelyn Cornell

The Workshop meeting began at 11:30AM after the Engineers and board members visited the site of discussion.

Supervisor Lucia said that had spent longer at the site than anticipated and they were here this morning to discuss long range plans to correct the situation so that it will not happen in the future. William Lupo of DEC said that based on everyone's opinion of what they have seen he feels that everyone agrees that there is high ground water that is causing problems in the basements of some of the homes. William Lupo said that what is not agreed upon is the answer to why. Mr. Lupo said he feels there is not enough information available to determine why. Mr. Lupo felt that there needed to be more investigating done to determine why. Mr. Lupo said that a hydro geologist, more test wells need to be done away from the areas where the dry wells, doing some soil morays to see if there is a confining layer under the sand. Currently the only way to know the water table is with the thirteen dry wells. Mr. Lupo said that it is the opinion of some that the cause of this problem is the beaver pond, because when the pond went down the ground water went down, but it cannot be positively said because it could be a coincidence because the seasonal water table nationally goes down at this time of year. Mr. Lupo said that next year we may want to keep the water level down in the beaver pond and should there be no problem we might conclude that that was the problem and if we control the water level of the beaver pond we can eliminate the problem. Mr. Lupo said on the other hand if the water level is down at the beaver pond and there is still water in the basements of the surrounding homes, then it could be concluded that the beaver pond has nothing to do with it. Mr. Lupo said that currently they do not know the direction that the ground water is flowing throughout that area, which is another reason to do the test wells.

Town Engineer Robert Lockwood said that he concurs with Mr. Lupo and hopefully maintaining the ponds water level will be the solution to the problem.

Gary Robinson, Guido Passerelli's Engineer said that Wayne Cortis is the owner of the property in question and he has spoke with him about doing some type of modification with trapping, or a possible easement with the town to rectify the situation. Mr. Robinson said that Mr. Cortis owns this development and does not want to. Mr. Robinson said that he knows for sure that he does not want to spend any more money in regards to this development.

Mr. Lockwood wanted to know if from a legal or regulatory standpoint if the at beaver dam and the pond that stands behind it, is contributing to the negative impact on the existing neighborhood is there anything that can be done for the greater good of the community? Mr. Lockwood said that the Town has a right to protect the citizens, does it have the right enter this property and do what is necessary for the safety and well being of its residents, or is there means available to allow the Town on that property in lieu of permission from the owner.

Town Counsel Robert Hafner said the issue revolves around evidence, and the town has just heard Mr. Lupo state that he is not convinced that there is enough evidence at this point to prove otherwise. Mr. Lockwood said that there is documentation that when the pond was lowered the issues' of water became less prevalent, and this might have been a series of coincidences that led to this occurrence but it is a fact that the situation improved when the water was let down. Mr. Lockwood said that he feels that that pond and the level of water that was in it is definitely a contributing factor.

Mr. Lupo from DEC said they do issue wildlife nuisance permits, it must be requested and to be working in the wetlands and within the 100ft buffer area and perhaps permission will be needed from the Army Corps of Engineers or at least a jurisdictional inquiry at best. Mr. Lupo said that the ACOE has regulations that pertain to the fill of wetlands and the discharge of dredge materials. Gary Robinson said that he spoke with a Melissa Neilly from DEC who deals specifically with beavers and beaver issues. Supervisor Lucia said that he had tried to set up a meeting with Paul Jenson who deals with beavers also. Mr. Lupo said that what was currently being addressed to deal with the situation were all permit able uses at DEC. Supervisor Lucia asked if the permit had to go through the property owner or if it could go through the Town. Mr. Lupo said that was not necessarily the case. Gary Robinson said that when he spoke with Melissa Neilly she said that if there was any type of impact on the roads from the water created in the pond then the highway department could go in and resolve this issue. Mr. Robinson said that Melissa told him that she could issue a permit that was in the property owners name but could list the Town as an agent. Mr. Robinson said that Melissa at DEC had asked for Mr. Cortis phone number and said that she was calling him on other matters but would also address this issue with Mr. Cortis and get back to Mr. Robinson. Mike Lemont said that there is an issue with the roads in Passarelli's subdivision where the roads towards the back are beginning to break up because of the

high water level. Councilman Byrnes said that Highway Superintendent Shawn Eggleston is aware of this and the road is really bad.

Bob Lockwood wanted to know if the owner of the property might be receptive on a short-term basis to keep the level of the pond down through next year and see if we have a problem. Supervisor Lucia said that there are other issues here involving DEC, where a neighbor had called and said that the Town was endangering the wildlife in the pond. Mr. Lupo said that if the Town got in there with a geo-technical program now they still might not have any of the answers needed to address the problem by next spring. Mr. Lupo said that we would need to look at what can be done to alleviate the problem for next spring.

Bob Lockwood said that there had been aerial photos taken years ago prior to the development and there are recent aerial photographs that show a much larger pond. Mr. Lockwood said he believes that this may be another point of evidence.

Mike Lemont suggested attacking this issue as if Mr. Corts would not help. Mr. Lupo suggested making an attempt to obtain a maintenance easement,; one where as the town would have legal access to it with out having ownership. Mr. Lemont felt that Mr. Corts would be agreeable to that. Councilman Saunders wanted to know where the burden of the cost would lie. Attorney Hafner said that if the Town authorized payment it would come from the Town. There was further discussion relative to the costs and who would be responsible, and who would be responsible for maintaining the level of the pond. Councilman Byrnes felt if the Town could get a maintenance easement then they could control the level of the pond for the next year and see if the pond is part of the problem. This way the only investment would be man-hours. Bob Lockwood asked what is necessary at minimal to maintain the level of the pond where it is at present.

Bob Lockwood said that the Town does not now if this same situation may have taken place if there was not a development there. Mr. Lockwood said that the ground water in the pond may have caused the level of the water to rise whether there was a subdivision there or not and at that point the residents would've still been looking to the Town for answers. There was further discussion involving runoff and the removal of trees in reference to the rising water levels. Councilman Byrnes said that he felt that the Town needed to get the maintenance easement from the owner to maintain the pond level.

Gary Robinson leaves meeting at 12:29pm.

Attorney Hafner explained to the board members present that the Town currently does not have an obligation to get involved. Attorney Hafner said that the board needed to decide if they want to take on the responsibility or if they would just like to do it on a short-term basis. Attorney Hafner said that usually once it is done on a part time basis then it eventually becomes a permanent right and thus, becomes the Towns expense. The expenses are primarily getting the permits and the cost of sending the highway employees out to maintain. Attorney Hafner said that if the board does get involved and

the situation does not correct itself by maintaining the water level of the pond then there would be costs involved such as engineers. If the Town steps in it becomes their obligation.

The question was asked if DEC or the ACOE could step in and help by doing the study either paid for by the state or with funding that may be available. Mr. Lupo said that there is no funding available that he knows of like that. Councilman Saunders had significant concerns regarding the cost involved if maintaining the level of the pond was not the solution. Councilman Saunders said if it's not a simple solution then it is a significant cost to the Town.

There were further discussions involving the costs and it was suggested by Mr. Lupo that the Town have DEC wildlife biologist Melissa Neilly come to the pond site. Attorney Hafner asked if there was a way to get them both there at the same time. Mike Lemont wanted to know if the ACOE would also be available to come to the site.

Councilman Byrnes said that he has not heard much regarding the developers end in this; how much is he willing to partake in this including the expenses to follow. Councilman Byrnes said that he would like to see a partnership developer with the developer regarding the issue of the pond and the high water levels. Councilman Byrnes felt that it is important for the developer who owns the beaver pond to understand the importance of maintaining the water level so that it does not back up into the drainage pipe.

Attorney Hafner said it appears to him that there are two things that need to be done. The first is an engineering study with resolutions. Attorney Hafner said the second thing is does the Town want to seek an easement from Mr. Corts with either a) does the Town want it for a one-year period or b) does it want a permanent easement. Attorney Hafner said if the Town decides on just one year then they can make it clear they are not accepting responsibility for the long-term solution. Attorney Hafner said that once the Town steps in if it is not a simple solution; there are residents that live there are will be looking for the towns help, the board has already stated that they want to help the residents that live there. Mr. Hafner would suggest doing it with a permanent easement.

Attorney Hafner said that the next issue is what is the Town authorized to do. Attorney Hafner said there are two options. One is what we did this year, which was keeping the water level of the dam at a lower level with approval from DEC. The second option is to do that but also have the right to put in the vertical riser, which lets the water out partway up the dam so that the beavers are not disturbed. Mike Lemont said that something needed to be actually done about the beavers. Attorney Hafner said that with an easement the Town would have the right to request from DEC what the Town needed to remove the beavers.

Mr. Lupo said that before DEC and the ACOE get involved the Town needs to know the hows and what's of what they want to do with this issue and have goals. The Towns proposed activities would depend on the ACOE's involvement.

Supervisor Lucia said that at this point the Town needed to have another workshop, contact more people that need to be involved. Supervisor Lucia requested that Town Engineer Bob Lockwood come up with some rough estimates of potential costs to the Town prior to the next workshop. Supervisor Lucia said the long-range site of the board is to permanently fix this issue.

Mike Lemont offered to have Gary Robinson get hold of the ACOE for the next workshop. Supervisor Lucia said that would be a good idea and that two people from DEC and one person from the ACOE should be present.

RESOLUTION# 166
MOTION TO ADJOURN WORKSHOP

ADOPTED: AYES: 5 Lucia, Brown, Byrnes, Saunders
 NAYS:

RESOLVED THAT THE WORKSHOP ADJOURNED AT 1:00PM.